



JUN 10 1994

Reply To  
Attn Of: HW-113

**GENERAL NOTICE LETTER - URGENT LEGAL MATTER**  
**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Boeing Company  
P.O. Box 3707  
Seattle, WA 98124

RE: Notice of Potential Liability Involving the Tulalip Landfill  
Site (also known as Big Flats Landfill), Marysville,  
Washington

Dear Sir or Madam:

This letter notifies you of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9607(a), as amended (CERCLA), that Boeing may incur or may have incurred with respect to the Tulalip Landfill Site (the Site). This letter also notifies you of potential response activities at the Site which Boeing may be asked to perform or finance at a later date.

**NOTICE OF POTENTIAL LIABILITY**

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Tulalip Landfill Superfund Site near Marysville, Washington and determined that certain response actions are necessary to protect public health or welfare or the environment. EPA has spent, and is considering spending, public funds to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially liable party or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 960(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973, as amended (RCRA), and other laws, potentially liable parties may be ordered to perform response actions deemed necessary by EPA to protect the public health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study (RI/FS), conducting a Remedial Design/Remedial Action (RD/RA), and other investigation, planning, response, oversight and enforcement activities. In addition, potentially liable parties may be

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required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

EPA has evaluated information in connection with investigations of the Tulalip Landfill Site. Based on this information, EPA believes that Boeing may be a potentially responsible party (PRP) with respect to this Site. PRPs under CERCLA include current and past owners or operators of the Site as well as persons who arranged for disposal or treatment of hazardous substances or who transported hazardous substances to the Site. By this letter, EPA notifies you of Boeing's potential liability with regard to this matter and encourages Boeing to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

#### **SPECIAL NOTICE AND NEGOTIATION MORATORIUM**

You may receive an additional notice from EPA in the future. That notice would either inform you that EPA is using the CERCLA Section 122(e) special notice procedures to formally negotiate terms of a consent order or consent decree to conduct or finance site response activities, or it would inform you that EPA is not using such procedures pursuant to Section 122(a). If EPA does not use Section 122(e) special notice procedures, the notice would specify why the procedures were not appropriate in this case.

Under Section 122(e), EPA has the discretionary authority to use the special notice procedures if EPA determines that such procedures would facilitate an agreement between EPA and the PRPs and would expedite response action at the Site. Use of the special notice procedures triggers a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal negotiations for PRP conduct or financing of the response activities at the Site.

The initial moratorium for response actions lasts for 60 days after the notice. If EPA determines that an offer is submitted by the PRPs within those 60 days, and that the offer is a good faith offer, a 60 day extension is provided for by statute for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of the moratorium period, EPA may terminate the negotiation moratorium under Section 122(e)(4) of CERCLA. EPA then may commence such cleanup or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or finance the necessary cleanup activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site

expenditures. Alternatively, EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities, or may commence civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under Section 107(c)(3).

#### SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred certain costs at the Site. EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws. At present, a number of PRPs are conducting a Remedial Investigation and Feasibility Study (RI/FS) at the Site under an administrative order on consent that became effective August 12, 1993. The RI/FS is being performed in phases, with the initial phase designed to evaluate the "presumptive remedy" of containing the waste material in the landfill. The consent order requires the PRPs to perform the following:

1. A Remedial Investigation (RI), in accordance with an approved work plan, to identify the Site characteristics and to define the nature and extent of soil, air, surface water, sediment and ground water contamination at the Site, and the risks posed by the Site. The first phase of fieldwork began in late 1993. Additional field work is planned for Summer, 1994.
2. A Feasibility Study (FS) to evaluate alternative remedial actions to contain hazardous substances, pollutants, and contaminants at the Site. The FS is being conducted concurrently with the RI. As described above, containment options are being evaluated for the landfill source area.

During the next year, EPA plans to conduct, or reach agreement with PRPs to conduct, the following remedial activities at the Site:

1. Design and construct the source area containment response selected and approved by EPA for the Site.
2. Follow-through activities to monitor, operate, and maintain the completed response action as required at the Site after the response action is complete.

EPA's goal, and the stated goal of all parties to the August, 1993 consent order, is to begin construction of the source area containment response during the summer of 1995. In

autumn 1994, EPA plans to reach agreement with the PRPs to amend the existing RI/FS consent order to include design of the source area containment response. In the spring of 1995, EPA plans to reach agreement with the PRPs to implement the source area containment response as a non-time critical removal action through a second administrative order on consent.

#### INFORMATION TO ASSIST POTENTIALLY RESPONSIBLE PARTIES

EPA would like to encourage good faith negotiations between the PRPs and EPA, as well as among the PRPs. To assist the PRPs in preparing a proposal and in negotiating with EPA concerning this matter, EPA is providing the following information as an attachment to this letter:

1. A list of names and addresses of PRPs to whom a notice letter of potential liability has been sent. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Tulalip Landfill Site.
2. A list of names, phone numbers, and fax numbers of PRP contacts.
3. A copy of the August 12, 1993, Administrative Order on Consent (without attachments) for the RI/FS activities.
4. A fact sheet that describes the Site.

In addition, EPA has available for your review the evidence used to make the determination that Boeing is a PRP. This information is available for your review at the EPA Region 10 Records Center in Seattle, at the location noted below in the section describing the Administrative Record for this Site.

#### PRP STEERING COMMITTEE

EPA recommends that Boeing meet with all the PRPs, including the PRPs that have negotiated the RI/FS consent order and are currently implementing the RI/FS. Establishing a manageable group or steering committee that is responsible for representing the group's interests is critical for successful negotiations with EPA. Alternatively, EPA encourages each PRP to select one person from its company or organization who will represent its interests.

To help facilitate effective communication, EPA has scheduled a meeting with all the Tulalip Landfill PRPs at 1:00pm on June 21, 1994, in Room 12A of the EPA Region 10 offices, 1200

Sixth Street, Seattle, Washington, 98101. This meeting will provide Boeing with an opportunity to learn more about the current status of the RI/FS and EPA's future plans for the Site, and to meet with the other PRPs.

#### ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for the Tulalip Landfill Site. EPA is in the process of assembling the administrative record, and the files are available to the public for inspection and comment. The primary location is at the Records Center on the seventh floor at the EPA Region 10 office, at 1200 Sixth Avenue, Seattle, Washington, 98101. To arrange an appointment to view the administrative record at the EPA Region 10 offices, please contact the Records Center at (206) 553-4494. The Records Center can also schedule appointments for you (with the Site Manager's permission) to review the Tulalip Landfill Site file. Copies of the administrative record are also available for review near the Site at the Marysville Public Library, 4822 Grove, Marysville, Washington.

#### PRP RESPONSE AND EPA CONTACT

Boeing is encouraged to contact EPA to indicate your willingness to participate in future negotiations for the Tulalip Landfill Site. Boeing may respond individually or through the existing PRP group. If you have any questions about this matter, please contact Richard McAllister, Assistant Regional Counsel, at (206) 553-8203, or Eric Winiecki, Remedial Project Manager, at (206) 553-6904.

Sincerely,



Carol Rushin, Chief  
Superfund Remedial Branch

#### Attachments

cc: Richard McAllister, Office of Regional Counsel  
Eric Winiecki, Hazardous Waste Division  
Tom McKinsey, Tulalip Tribes

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# Receipt for Certified Mail

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**P.O. Box 3707**  
**Seattle, WA 98124**

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TOTAL Postage & Fees	\$
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PS Form 3800, March 1993

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CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

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- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

## 3. Article Addressed to:

Boeing Company  
P.O. Box 3707  
Seattle, Washington 98124

## 4a. Article Number

2 005 702 759

## 4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

## 7. Date of Delivery

JUN 13 1994

## 5. Signature (Addressee)

## 6. Signature (Agent)



## 8. Addressee's Address (Only if requested and fee is paid)

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